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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,870

12/07/2005

Taketo Takeuchi

125195

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25944 7590 04/10/2008

OLIFF & BERRIDGE, PLC

P.O. BOX 320850

ALEXANDRIA, VA 22320-4850

EXAMINER

MCCLLOUD, RENATA D

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/559,870	<b>Applicant(s)</b> TAKEUCHI	
	<b>Examiner</b> RENATA MCCLOUD	<b>Art Unit</b> 2837	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsunaga et al (US 6114828) in view of Shimazaki et al (US20020116100)

**Claims 1,9:** Matsunaga et al teach a temperature sensor (6) that detects a temperature of junctions (T1-T6) supplying currents to phases (U, V, W) of a motor (5; col. 3:43-59, col. 7:25-30); a controller (12) that controls a torque (col. 7:8-15), detects a stalled state (col. 4:8-21), detects a phase angle the motor (10; col. 3:60-67) and selects a temperature detected by the temperature sensor based on the detected current (col. 4:32-37; col. 6:45-55); wherein the torque of the motor is reduced when the stalled state is detected (col. 4:21-32) and the temperature exceeds a threshold (col. 6:49-55), a temperature is from a coil (col. 6:45-55, particular switch device with respect to motor, 7:8-15), detecting a maximum current flow (col. 4:58-5:5), the maximum current flow being detected based on the detected current phase angle (col. 4:21-32, 7:25-35). Matsunaga et al do not explicitly recite that the selected temperature is from a coil where a maximum current flow is detected. Shimazaki et al teach an excessive temperature is from a coil where a maximum current flow is detected (par. 0015-0016).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Matsunaga et al to select a temperature from a coil where a maximum current flow is detected as taught by Shimazaki et al, in order to prevent damage to the motor and switches.

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**Claims 2,5,10,13:** Matsunaga et al teach the controller selects a phase when a temperature is within a range where a maximum current flows in the phase (col. 4:4:62-5:5; 5:59-6:5).

**Claims 3,4,11,12:** Matsunaga et al teach the phase angle is based on the rotational angle of the motor (col. 3:60-63).

**Claims 6, 7,14,15:** Matsunaga et al teach the controller reduces the torque until the temperature exceeds the limit (col. 4:62-5:5).

**Claim 8,16:** Matsunaga et al teach when the stall occurs outside a predetermined range of a phase, a phase having the maximum temperature is selected (col. 4:9-36).

### ***Response to Arguments***

3. Applicant's arguments filed 12/21/2007 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's arguments that Matsunaga fails to disclose all the features of claims 1 and 9 because Matsunaga reduces the torque if the motor does not rotate, Matsunaga discloses that the motor is stopped because it is in a locked state (Col. 2:8-33, col. 4:8-21) due to overheating (col. 6:49-55).

Also, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the

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motor is rotating) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that Shimazaki fails to teach selecting temperature from a coil of the plurality of coils, the examiner relied on Shimazaki for the teaching that a maximum temperature comes from a maximum current. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RENATA MCCLOUD whose telephone number is (571)272-2069. The examiner can normally be reached on Mon.- Fri. from 5:30 am - 2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-2800 ext. 37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Renata McCloud/  
Examiner, Art Unit 2837

/R. M./  
Examiner, Art Unit 2837